

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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JOSE A. GONZALEZ,

Plaintiff,

**ORDER**

11-cv-2162 (ADS)(AKT)

-vs.-

MARIO BAIBEL and LEROY RIDLEY

Defendants.

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**APPEARANCES:**

**Jose A. Gonzalez,**  
*Pro Se Plaintiff*

**Village of Hempstead Attorney's Office**

99 Nichols Court

P.O. Box 32

Hempstead, NY 11551

By: Debra Ann Urbano-DiSalvo, Village Attorney

**SPATT, District Judge.**

On May 6, 2011, the Plaintiff Jose A. Gonzelez, through his attorneys, filed a complaint asserting civil rights violations pursuant to 42 U.S.C. § 1983. On August 2, 2011, United States Magistrate Judge A. Kathleen Tomlinson held an Initial Conference Hearing with the parties and issued a Case Management and Scheduling Order (“CMSO”) as a result of that hearing. After a lengthy and convoluted procedural history, including motions to withdraw as counsel on behalf of the Plaintiff and failures by the Plaintiff—then acting *pro se*—to appear at certain hearings, Judge Tomlinson advised counsel that she would be preparing a Report and Recommendation to this Court recommending dismissal of the action. Judge Tomlinson then mailed a copy of the Civil Conference Minute Order to the Plaintiff.

On December 5, 2012, Judge Tomlinson issued a Report recommending that the Plaintiff's case be dismissed based on his failure to comply with this Court's Orders as well as his failure to prosecute his claims. See Fed. R. Civ. P. 41(b). In this regard, Judge Tomlinson explained the Plaintiff's history of non-compliance with the Court's Orders; in failing to appear at mandatory Court conferences; and failing to communicate in any way with the Court. To date, no objection has been filed to Judge Tomlinson's Report and Recommendation.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Tomlinson's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Tomlinson's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

**ORDERED** that Judge Tomlinson's Report and Recommendation is adopted in its entirety, and it is further

**ORDERED** that the Plaintiff's action is dismissed in its entirety for failure to prosecute; and it is further

**ORDERED** that the Clerk of the Court is directed to mark this case as closed.

**SO ORDERED.**

Dated: Central Islip, New York  
February 25, 2013

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge